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REQUEST FOR REHEARING Under 37 C.F.R. § 41.52	Application Number	09/060,188
	Confirmation Number	9333
	Attorney Docket No.	AREN-001CIP
	Filing Date	April 14, 1998
	First Named Inventor	BEHAN, DOMINIC P.
	Examiner	HOWARD, ZACHARY
	Group Art	1646
	Appeal No.:	2011-009250

Sir:

Regarding Appeal 2011-009250 for Application 09/060,188 in which the Board of Patent Appeals and Interferences upheld that the claimed invention does not possess utility and is not enabled by the disclosure, Applicants respectfully petition for rehearing based on a misunderstanding by the Board on the meaning of the term “orphan receptor”.

The Board is considering whether the specification demonstrates a useful function for an orphan GPCR encompassed by the claims. In the Analysis section of the Decision, page 7, first paragraph, the Board states:

“However, as indicated by the Examiner (FF2,3) the receptors of Liao, Alkhatib and Farzan are not orphan receptors within the scope of the claims because their function is known”.

In making this statement, the Board has clearly misunderstood the meaning of the term “orphan receptor” or overlooked its definition in the specification. As understood by one of skill in the art, and as defined in the specification at page 20, lines 6-7:

“ORPHAN RECEPTOR shall mean an endogenous receptor for which the endogenous ligand specific for that receptor has not been identified or is not known”.

Based on the definition, it is clear that an orphan receptor is defined by whether or not an endogenous ligand is known to interact with the receptor. The definition of orphan receptor has nothing to do with whether the receptor has a known function. There are some orphan receptors (receptors where the ligand is not known) that have an unknown function and there are other orphan receptors (receptors where the ligand is not known) that have a known function such as those cited by the Applicants and acknowledged by the Examiner and the Board.

Therefore, the statement in the Decision cited above that the receptors of Liao, Alkhatib and Farzan “are not orphan receptors within the scope of the claims because their function is known” is clearly incorrect. The receptors of Liao, Alkhatib and Farzan are orphan receptors because the ligands for these receptors were not known. Whether these receptors had a known function was irrelevant as to whether they were orphan receptors. These arguments can also be found in Applicants Appeal Brief at page 8, least paragraph to page 10, second paragraph.

This misunderstanding of the definition of an orphan receptor led the Board to miss the main thrust of the Applicants argument which was that the claimed method can be performed using “orphan receptors” and still have patentable utility. The Board’s comment indicating that the orphan receptors of Liao, Alkhatib and Farzan have a known function (utility) indicates that they agree with this conclusion.

Thus, Applicants respectfully submit that the claimed invention, which is directed to methods for identifying non-endogenous candidate compounds that modulate orphan receptors, does have utility.

A request for rehearing is hereby requested for the reasons set forth above.

Respectfully submitted,

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